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07/830,382 02/03/92 REAVER

R 33116

EXAMINER

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ART UNIT PAPER NUMBER

3205

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DATE MAILED: 04/21/92

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice re Patent Drawing, PTO-948.        |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.      | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____  |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-20 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☐ Claims \_\_\_\_\_ have been cancelled.

3. ☒ Claims 18-20 are allowed.

4. ☒ Claims 1-4, 6-15. are rejected.

5. ☒ Claims 5, 16, 17 are objected to.

6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

- A person shall be entitled to a patent unless --
2. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
3. Claims 1, 3, 4, 6, 7, 8, 9, 10 11, 12, 13, 14, 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Liebling.

The patent to Liebling shows all the elements recited. Note Liebling discloses a porous cover in column 3, lines 13-14. It appears Liebling is capable of functioning as a hand held fly swatter. Note Liebling shows rear bumper 14 affixed to handle 7 (by way of brace 15) to limit movement by meeting loop 8 as shown in Figures 2 and 3. Note Liebling shows rearwardly extending projection 12. Claim 10 for example does not state what "rearwardly extending" is in relation to.

4. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102

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of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

5. Claim 2 is rejected under 35 U.S.C. § 103 as being unpatentable over Liebling.

The patent to Liebling shows a hand held loseable fish net which is capable of being used as a fly swatter having an elongate handle, a rigid housing 2, 12 and a track 11. Liebling shows a round wire handle but it would have obvious to employ a rectangular cross sectional handle since no showing of criticality was made and the function is the same.

6. Claims 5, 16, 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 18-20 are allowable.

8. The patents to Pierce, Malacheski, Little, Steves, McDermott, Hanlon, Chapman, Edge, G.B. 908,392, French 533,116, and DT 3926573 show the state of the art.

9. Any inquiry concerning this communication should be directed to Kurt Rowan at telephone number (703) 308-2321.

K. Rowan/eb  
April 06, 1992

**KURT ROWAN  
PATENT EXAMINER  
GROUP 320**